

§ 102.12

19 CFR Ch. I (4–1–03 Edition)

(c) Where the country of origin cannot be determined under paragraph (a) or (b) of this section and the good is specifically described in the Harmonized System as a set or mixture, or classified as a set, mixture or composite good pursuant to General Rule of Interpretation 3, the country of origin of the good is the country or countries of origin of all materials that merit equal consideration for determining the essential character of the good.

(d) Where the country of origin of a good cannot be determined under paragraph (a), (b) or (c) of this section, the country of origin of the good shall be determined as follows:

(1) If the good was produced only as a result of minor processing, the country of origin of the good is the country or countries of origin of each material that merits equal consideration for determining the essential character of the good;

(2) If the good was produced by simple assembly and the assembled parts that merit equal consideration for determining the essential character of the good are from the same country, the country of origin of the good is the country of origin of those parts; or

(3) If the country of origin of the good cannot be determined under paragraph (d)(1) or (d)(2) of this section, the country of origin of the good is the last country in which the good underwent production.

[T.D. 96–48, 61 FR 28956, June 6, 1996]

§ 102.12 Fungible goods.

When fungible goods of different countries of origin are commingled the country of origin of the goods:

(a) Is the countries of origin of those commingled goods; or

(b) If the good is fungible, has been commingled, and direct physical identification of the origin of the commingled good is not practical, the country or countries of origin may be determined on the basis of an inventory management method provided under the appendix to part 181 of the Customs Regulations.

§ 102.13 De Minimis.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section,

foreign materials that do not undergo the applicable change in tariff classification set out in §102.20 or satisfy the other applicable requirements of that section when incorporated into a good shall be disregarded in determining the country of origin of the good if the value of those materials is no more than 7 percent of the value of the good or 10 percent of the value of a good of Chapter 22, Harmonized System.

(b) Paragraph (a) of this section does not apply to a foreign material incorporated in a good provided for in Chapter 1, 2, 3, 4, 7, 8, 11, 12, 15, 17, or 20 of the Harmonized System.

(c) Foreign components or materials that do not undergo the applicable change in tariff classification set out in §102.21 or satisfy the other applicable requirements of that section when incorporated into a textile or apparel product covered by that section shall be disregarded in determining the country of origin of the good if the total weight of those components or materials is not more than 7 percent of the total weight of the good.

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§ 102.15 Disregarded materials.

(a) The following materials shall be disregarded when determining whether the good undergoes the applicable change in tariff classification set out in §102.20 or §102.21, or satisfies the other applicable requirements of those sections:

(1) Packaging materials and containers in which a good is packaged for retail sale that are classified with the good;

(2) Accessories, spare parts or tools delivered with the good that are classified with the good and shipped with the good;

(3) Packing materials and containers in which a good is packed for shipment; and

(4) Indirect materials.

(b) [Reserved]

[T.D. 96–48, 61 FR 28956, June 6, 1996]

§ 102.17 Non-qualifying operations.

A foreign material shall not be considered to have undergone an applicable change in tariff classification specified in §102.20 or §102.21 or to have met

any other applicable requirements of those sections merely by reason of one or more of the following:

- (a) A change in end-use;
- (b) Dismantling or disassembly;
- (c) Simple packing, repacking or retail packaging without more than minor processing;
- (d) Mere dilution with water or another substance that does not materially alter the characteristics of the material; or
- (e) Collecting parts that, as collected, are classifiable in the same tariff provision as an assembled good pursuant to General Rule of Interpretation 2(a), without any additional operation other than minor processing.

[T.D. 96-48, 61 FR 28956, June 6, 1996]

§ 102.18 Rules of interpretation.

(a) When General Rule of Interpretation (GRI) 2(a) is referred to in §102.20 as an exception to an allowed change in tariff classification, this means that such change will not be acceptable for purposes of that section if the change results from the assembly of parts into an incomplete or unfinished good which is classifiable in the same manner as a complete or finished good pursuant to GRI 2(a).

(b) (1) For purposes of identifying the material that imparts the essential character to a good under §102.11, the only materials that shall be taken into consideration are those domestic or foreign materials that are classified in a tariff provision from which a change in tariff classification is not allowed under the §102.20 specific rule or other requirements applicable to the good. For purposes of this paragraph (b)(1):

(i) The materials to be considered must be classified in a tariff provision from which a change in tariff classification is not allowed under the specific rule or other requirements applicable to the good under consideration. For example, in the case of a good classified in HTSUS subheading 8607.11 (the rule for which specifies a change to subheading 8607.11 from any other subheading, except from subheading 8607.12, and except from subheading 8607.19 when that change is pursuant to GRI 2(a)), the only materials that may be considered for purposes of identifying the materials that impart the es-

sentia character to the good are those that are classified in subheadings 8607.11, 8607.12 and, if the tariff shift is pursuant to GRI 2(a), 8607.19;

(ii) Materials that may be considered include materials produced by the producer of the good and incorporated in the good. For example, if a producer of a good purchases raw materials and converts those raw materials into a component that is incorporated in the good, that component is a material that may be considered for purposes of identifying the materials that impart the essential character to the good, provided that the component is classified in a tariff provision from which a change in tariff classification is not allowed under the specific rule or other requirements applicable to the good; and

(iii) If there is only one material that is classified in a tariff provision from which a change in tariff classification is not allowed under the §102.20 specific rule or other requirements applicable to the good, then that material will represent the single material that imparts the essential character to the good under §102.11.

(2) For purposes of determining which one of two or more materials described in paragraph (b)(1) of this section imparts the essential character to a good under §102.11, various factors may be examined depending upon the type of good involved. These factors include, but are not limited to, the following:

(i) The nature of each material, such as its bulk, quantity, weight or value; and

(ii) The role of each material in relation to the use of the good.

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§ 102.19 NAFTA preference override.

(a) Except in the case of goods covered by paragraph (b) of this section, if a good which is originating within the meaning of §181.1(q) of this chapter is not determined under §102.11(a) or (b) or §102.21 to be a good of a single NAFTA country, the country of origin of such good is the last NAFTA country in which that good underwent production other than minor processing, provided that a Certificate of Origin